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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,866	04/10/2001	Timothy Jay Smith	9D-EC-19759	7398
7590 John S. Beulick Armstrong Teasdale LLP One Metropolitan Square Suite 2600 St.Louis, MO 63102			EXAMINER JARRETT, SCOTT L	
			ART UNIT 3623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	09/829,866	SMITH ET AL.
	Examiner	Art Unit
	Scott L. Jarrett	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 February 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on December 22, 2006 and February 14, 2007 have been entered.

Applicant's amendment amended claims 1-20. Currently claims 1-20 are pending.

Response to Amendment

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Response to Arguments

3. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over User's Guide to ROADNET 5000 (1996).

Regarding Claims 1, 10 and 19 ROADNET teaches a goods delivery system and method having at least one delivery agent location, address and delivery zone comprising:

- getting delivery agent (driver or truck) information of a delivery agent that delivers a plurality of goods (onboard, driver performance, truck/route summary, driver survey; Paragraph 1, Page 6.71; Pages 6.34, 6.36, 7.19; Paragraph 1, Page 4.25; Table on Page 4.26; Figure on Page 4.25);
- calculating a first delivery capacity comprising a first volume (cube, equivalency, size) defined by a plurality of slots each slot defining a volume (route, vehicle and load capacities, different categories of sizes and categories; Pages 1.47, 1.68, 6.64; Steps 4-5, Page 4.36; Table on Page 2.51, Rows 11-13; Table on Page 3.22, Last Row; Table on Page 2.58, Rows 2, 9-10; Tables 7.18, 7.57; 7.61; Figures on Pages 4.17, 7.42, 7.44);

Art Unit: 3623

- assigning a work unit () to each of the plurality of goods indicative of the portion of volume defined by a number of slots ("You, as the user, define the size class unit that you enter for the vehicle capacity. For example, you may enter a capacity number in terms of pounds, cubic feet, cartons, etc.", Step 3, Page 2.82; cubes, size/capacity equivalency, standard order size, etc.; Pages 2.82, 4.66-4.66, 6.53; Steps 4-5, Page 4.36; Figures 4.65, 4.77; Tables 2.53, 2.57, 4.68; Table 2.58, Rows 2, 9, 10; Table 6.60, Last Row) used to delivery each good (cube, equivalency factor, size categories) wherein the work unit is based on at least one of a size of the good and time to deliver/install goods (service time: Pages 2.83-2.85; Tables 4.18; 4.60, 4.61, 4.114, 6.61; Table 4.11, Row 3; Table 6.61, Row 2; Figures 1.12, 1.19, 4.17, 6.59; i.e. ROADNET schedules goods delivery using a combination of service time, time window, capacity/size/equivalent size constraints/parameters);

- calculating a portion of the delivery capacity used based on the assigned work units ("Bar graphs in the window are in proportion to each other. For instance, your largest load will have the longest graph for load. Your farthest account will have the longest graph for distance. The amount of blue used in a shaded box, such as load, shows how much of the truck is full. The proportion of the blue box that is just an outline shows how much of the truck remains empty. A red box indicates that the route is over the limit for that category." Paragraph 3. Page 2.16; Table 7.4, Row 11; Table 2.51, Rows 11-13; Table 7.4, Row 11; Table 2.58, Row 2; Tables 2.53, 2.56; Figures 7.42, 7.43, 7.43);

- calculating usage information for the delivery agent (truck, driver) based on a single day and a delivery zone (Paragraph 3, Page 216; route capacity: Page 1.47; Table 2.53, Last Row; Table 2.109; vehicle capacity: Page 6.64; Table 1.68, Rows 2,4; Tables 2.51, 7.61; Figure on Page 7.62; resource utilization: Pages 6.20, 7.41; Table 7.38);

- displaying (reporting) a periodic calendar format (table, matrix) illustrating the delivery agent information and delivery agent (truck, driver) statistics (numbers) for a respective zone for each day in a respective period wherein the format is further adapted to have drill-down capability to display additional daily details (time windows by day: Page 6.62; Table 7.57; Figure on Page 7.58; month/daily driver/route summary/performance reports: Last Paragraph, Page 1.27; Step 5, Page 1.79; Step 6, Page 6.17; Pages 6.12-6.13; 6.20, 6.24, 6.32);

- determining whether a first delivery capacity (time, truck capacity, route time, stops, etc.) of the delivery agent (driver, truck) during a first period (window, day, route, time, etc.) is exceeded (route planning, insert/move/delete stops; Page 1.70; Paragraph 3, Page 2.16; Paragraph 1, Page 2.82; Pages 2.20-2.24; Figure on Page 2.27);

- determining whether a second delivery capacity of the delivery agent during a second period is exceeded (route planning, insert/move/delete stops; Page 1.70; Paragraph 3, Page 2.16; Paragraph 1, Page 2.82; Pages 2.20-2.24; Figure on Page 2.27); and

- determining to delivery the goods during the second period upon determining that the first delivery capacity is exceeded and the second delivery capacity is not

exceeded, wherein the goods are configured to utilize the entire second delivery capacity (route planning, insert/move/delete stops; Page 1.70; Paragraphs 2-3, Page 2.16; Paragraphs 1, Page 2.82; Pages 2.20-2.24; Figure on Page 2.27).

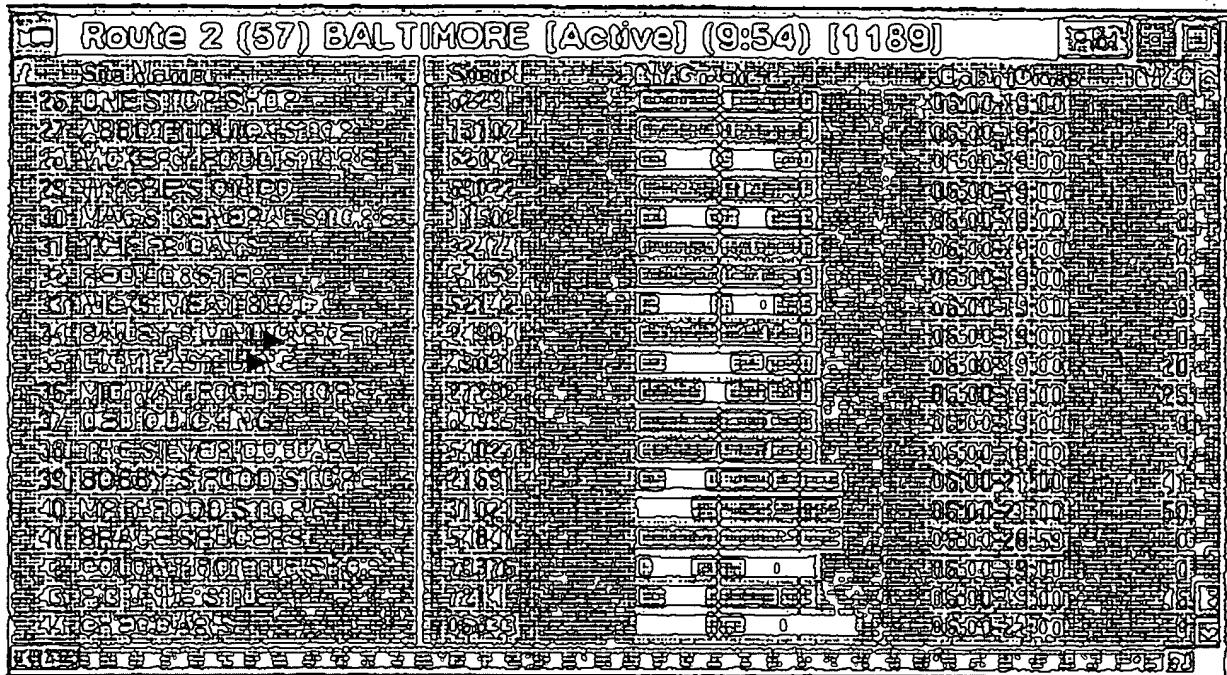


Figure 1: Route Window, Figure on Page 2.23, emphasis added



<u>Column Name</u>	<u>Description</u>
RSC Number	Identifier number for route assigned by ROADNET 5000
<u>Description</u>	<u>Description or name of route</u>
<u>Number of Stops</u>	<u>Number of stops on route</u>
<u>Start Time</u>	<u>Delivery start time of route</u>
<u>Run Time</u>	<u>Total run time for route not including breaks, etc.</u>
<u>Run Time (Graphical)</u>	<u>Graphical display of Run Time</u>
<u>Driver</u>	<u>Driver ID number</u>
<u>Vehicle ID</u>	<u>Vehicle ID number</u>
<u>Depot Number</u>	<u>Depot identifier number</u>
<u>Load Size 1</u>	<u>First user-defined unit of measurement</u>
<u>Load Size 2</u>	<u>Second user-defined unit of measurement</u>
<u>Load Size 3</u>	<u>Third user-defined unit of measurement</u>
<u>Load (Graphical)</u>	<u>Graphical representation of vehicle capacity</u>
<u>Load Priority</u>	<u>Priority for loading given to a particular route/routes</u>
<u>Route Distance</u>	<u>Total length of route</u>
<u>Distance (Graphical)</u>	<u>Graphical display of route distance</u>
<u>Extra Distance</u>	<u>Additional distance above that allotted through sequencing</u>
<u>Regular Time</u>	<u>Time at which driver overtime starts to be calculated</u>
<u>Service Time</u>	<u>Length of service time</u>

Figure 2: Route Information, Table on Page 2.51, emphasis added

Field	Description
General Defaults	
Depot	Depot name
Travel Time Model	Travel time model number and description
Vehicle Type	Type of vehicle most commonly used
Site Defaults	
Open	Site open time
Close	Site close time
Time Window Factor	Importance of making time window
Zone	Zone site is located in
State	State site is located in
Area Code	Area code of telephone number of site
Service Times	
Fixed	Fixed service time (with & without helper)
Variable	Variable service time (with & without helper)
Bulk Fixed	Fixed service time of bulk delivery
Bulk Variable	Variable service time of bulk delivery
Minimum Bulk Qty	Minimum quantity to be considered bulk
Size Aliases	
Size1	Assigned name of Size1 quantity
Size2	Assigned name of Size2 quantity
Size3	Assigned name of Size3 quantity
Unit of Measure	
Size1	Sets Size1 default unit of measure
Size2	Sets Size2 default unit of measure
Size3	Sets Size3 default unit of measure
Unit of Cost	
Size1	Sets Size1 default unit of cost
Size2	Sets Size2 default unit of cost
Size3	Sets Size3 default unit of cost
Unit of Service	
Size1	Sets Size1 default unit of cost
Size2	Sets Size2 default unit of cost
Size3	Sets Size3 default unit of cost
Variable service time in:	Adjusts measurement of variable service time (Tenths, hundredths, or thousandths of minutes)

Figure 3: System defaults, Table spanning Pages 4.11-4.12, emphasis added

Demand Transmit Layout - Download - Change					
Field	Offset	Length	Field	Offset	Length
Order Number	101	10	Category 1 Size 1	011	01
Site ID	012	10	Category 1 Size 2	012	01
Total Size 1	013	01	Category 1 Size 3	013	01
Total Size 2	014	01	Category 2 Size 1	014	01
Total Size 3	015	01	Category 2 Size 2	015	01
Time Window 1 Start	016	01	Category 2 Size 3	016	01
Time Window 1 Stop	017	01	Category 3 Size 1	017	01
Time Window 2 Start	018	01	Category 3 Size 2	018	01
Time Window 2 Stop	019	01	Category 3 Size 3	019	01
Selector	020	01	Product Code	020	01
Addl. Service Time	021	01	Product Quantity	021	01
Special Instructions	022	20	Product Increment	022	01

User's Guide

4.17

Figure 4: Order information/fields, Figure Page 4.17, emphasis added

Vehicle Types - Change				
Vehicle Type ID	001			
Vehicle Name	24FT3000			
	Total	Category 1	Category 2	Category 3
Capacity 1	420	000000	000000	000000
Capacity 2	4800	000000	000000	000000
Capacity 3	2800	000000	000000	000000

Figure 5: Vehicle type information, Figure Page 4.38, emphasis added

Category Sizes					
Category Size	Description	Display Header	Equivalency	Package Size	
11	Frozen Cube		000.10	M	
12	Frozen Pieces		000.15	M	
13	Frozen Weight		001.25	L	
21	Rätig Cube		000.10	M	
22	Rätig Pieces		000.15	M	
23	Rätig Weight		001.25	L	
31	Dry Cube		000.10	M	
32	Dry Pieces		000.15	M	
33	Dry Weight		001.25	L	

Figure 6: Goods category sizes, equivalency, package size, Figure Page 4.65

Category Sizes - Change Window		
Field Name	Description	Valid Entries
Category Size	Category and size package for this equivalency.	11, 12, 13, 21, 22, 23, 31, 32, or 33 - relating to Category 1/Size 1, Category 1/Size 2, Category 1/Size 3, etc.
Description	Definition for or description of this package.	Up to 15 characters.
Display Header	What you want the system to call this equivalency.	Up to 5 characters.
Equivalency	Factor (in hundredths) for the system to use to convert this category/size to the standard package dimension.	4 digits.
Package Size	The system does not use this field; however, you may enter a value to remind yourself of the size of this package.	Here are some suggestions: S - Small M - Medium L - Large X - Extra Large C - Cans

Figure 7: Goods category sizes, equivalency, Table Page 4.68, emphasis added

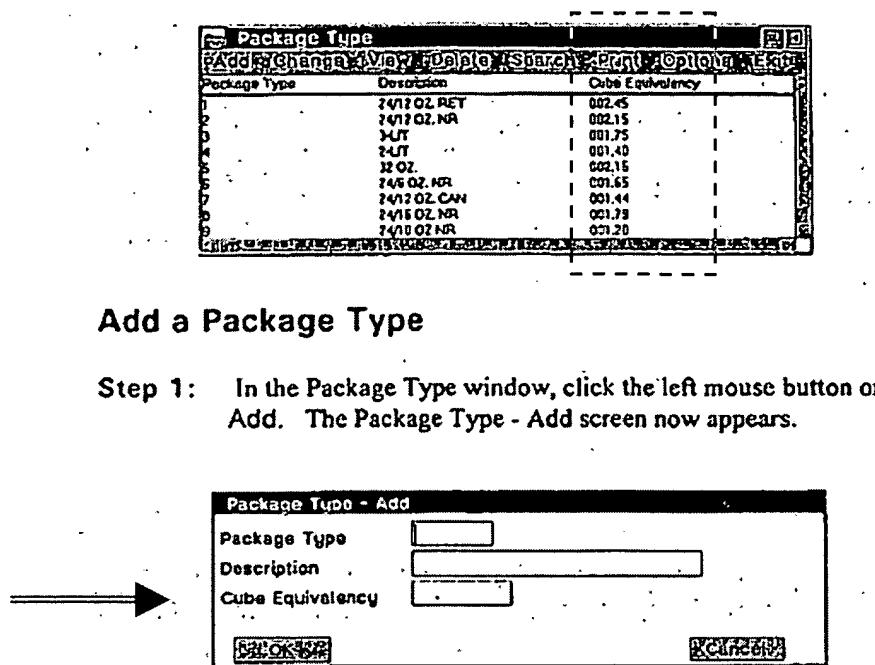


Figure 8: Package type cube equivalency, Figures Page 4.101, emphasis added

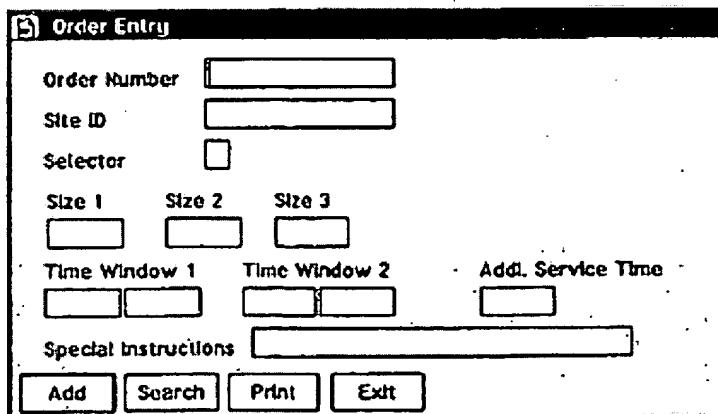


Figure 9: Order entry window, sizes, time window, additional service time, Figure Page 6.44

Menu Path: Maintenance-->Initial Setups-->Vehicle Types

Vehicle Types						
	Add	Change	View	Delete	Search	Print
VehType	Name		Capacity 1 Total	Capacity 1/Cat 1	Capacity 1/Cat 2	
1	24 FT ST		420	0	0	
2	26ft		500	0	0	
3	16 & 19		400	0	0	
4	16 ft		400	0	0	
5	Milk Truck		6700	0	0	
6						

Step 2: On the Vehicle Types window menu, click the left mouse

Figure 10: Vehicle Capacity - total and by goods category, Figure Page 6.65

Account Types Report Example

ACCOUNT TYPES					
Page 1	Wed Mar 20, 1996 15:35				
acc	description	noh1	noh	hlpf	hlp
9	BOT 2WHL ALL DIST	70	42	0	0
10	DOCK 2WHL ALL DIST	61	46	0	0
15	DOCK 2WHL AL DST COD	96	46	0	0
20	RAMP 2WHL ALL DIST	47	44	0	0
22	RAMP 4WHL ALL DIST	68	31	0	0
25	RMP 2WHL ALL DST COD	48	45	0	0
30	LG, 2WHL ALL DIST	129	32	0	0
40	DOCK, PLT, ALL DIST	79	21	0	0
41	DOCK, PLT, ELE, ALL DIS	170	36	0	0
100	BOT, 2WHL <= 25FT	78	24	0	0
110	DOCK, 2WHL <= 25FT	23	43	0	0
+111	DOCK, 2WHL, <= 35 ELEV	-61	-57	-0	-0
113	dock, 2whl, <= 25 stair	23	47	0	0
115	DOCK, 2WHL, <= 25 COD	59	45	0	0
120	RAMP, 2WHL <= 25	26	43	0	0
121	RAMP, 2WHL <= 25 ELEV	54	57	0	0
+123	RAMP, 2WHL <= 25 stair	+49	-47	-0	-0
123	RAMP 2WHL <= 25 COD	44	45	0	0
140	DOCK, PLT, < = .25	32	55	0	0
210	DOCK, 2WHL, < = 50	23	45	0	0
211	DOCK, 2WHL, < = 50 ELEV	53	60	0	0
213	DOCK, 2WHL, < = 50 STAIR	48	17	0	0
215	DOCK, 2WHL, < = 50,COD	61	48	0	0
220	RAMP, 2WHL, < = 50	41	45	0	0
221	RAMP, 2WHL, < = 50, ELEV	69	55	0	0
223	RAMP, 2WHL, < = 50, STAIR	64	49	0	0
225	RAMP, 2WHL, < = 50, COD	59	46	0	0

Note: Report notes location of deliveries and if there is a ramp, stair, elevator at the delivery location

Header	Explanation
acc	Account type ID number
description	Description details
noh1	No helper fixed service time
noh	No helper variable service time
hlpf	Helper fixed service time
hlp	Helper variable service time

Figure 11: Accounts report, Page 7.2, emphasis added

Actual vs. Projected by Route Report

This is a description and example of an *Actual vs. Projected by Route Report*:

Field	Explanation
Route #/Name	ID # and name of route
Driver	Name of driver
Day	Day of week
Stops	Number of stops
RunTime	Total amount of run time
Service	Total amount of service time
Travel	Total amount of travel time
Dist.	Total distance of route
Units	Total # of units delivered on route
#Breaks/Time	Total # of breaks and time length
Actual % of Projected	% above or below projected run time
Run	% above or below projected service time
Svc	% above or below projected travel time
Trvl	% above or below projected distance
Dist	% above or below projected total units
Units	

Figure 12: Route Report, Page 7.3

Category Sizes Listing

This is a description and example of a *Category Sizes Listing*:

Header	Explanation
tr	Category size ID number
description	Description details
scrhe	Screen display header
equiv	Equivalency (in hundredths)
p	Package size

Category Sizes Listing Example

CATEGORY SIZES				
Page 1		Wed Mar 20, 1996		15:38
tr	description	scrhe	equiv	[p]
[11	Frozen Cube		10	[M]
[12	Frozen Pieces		15	[M]
[13	Frozen Weight		125	[L]
[21	Refrig Cube		10	[M]
[22	Refrig Pieces		15	[M]
[23	Refrig Weight		125	[L]
[31	Dry Cube		10	[M]
[32	Dry Pieces		15	[M]
[33	Dry Weight		125	[L]

Figure 13: Category Size Listing report, Page 7.7

Resource Utilization Report

This is a description and example of a *Resource Utilization Report*:

Field	Explanation
Date	Date of delivery
of Vehicles	Number of trucks used on delivery day
Units Del'd	Number of pieces delivered
% Cap	Percent of capacity used on vehicles
Avg Units/ Veh	Average number of cases delivered by truck
Stop	Average number of cases delivered by stop
Dist	Average number of cases delivered by mile
Travel Hours	Total hours traveled
Cost	Total travel cost
Service Hours	Total service hours
Cost	Total service cost
Regular Cost	Regular cost
Overtime Cost	Overtime cost
Vehicle Cost	Cost for truck
Total Cost	Total of all costs
Avg Cost per Unit	Average cost per piece
Dist	Average cost per mile/km
Stop	Average cost per stop
Stops	Number of stops on route

Figure 14: Resource utilization report, percent of vehicle capacity used, Page 7.38, emphasis added

ROUTE SUMMARY STATISTICS - PROJECTED											Dd 03-15-96 Pg 1									
Mar 20, 1996 11:56		ROUTE SUMMARY STATISTICS - PROJECTED											Dd 03-15-96 Pg 1							
Route	ID	Travel Time	Serviced	Total	O/T Dura-	Veh	%	Reg	O/T	Veh	Add'l	Total	Units/Hour	Units/Stop	Cost/Unit					
					Hrs since	Stops	ID	Cap	Size1	Size2	Size3	Cost	Cost	Cost	Cost	Cost				
51	5:17	6:28	1:00	11:45	3:15	106	19	0	140%	592	14830	5920	\$ 168	\$ 68	\$ 137.5	\$ 38	\$ 431	50	31 \$ 0.72	
52	5:16	6:17	1:00	11:33	3:03	97	19	0	133%	559	13725	5590	\$ 168	\$ 82	\$ 127.5	\$ 38	\$ 415	48	29 \$ 0.74	
53	4:16	6:15	1:00	10:31	2:01	69	22	0	118%	499	12475	4990	\$ 168	\$ 54	\$ 91.5	\$ 44	\$ 357	47	22 \$ 0.71	
54	4:45	6:39	1:00	11:24	2:54	75	22	0	132%	558	20250	5580	\$ 168	\$ 78	\$ 98.5	\$ 44	\$ 388	48	25 \$ 0.69	
55	4:33	6:40	1:00	11:13	2:43	72	22	0	133%	562	14450	5620	\$ 168	\$ 73	\$ 95.5	\$ 44	\$ 380	50	25 \$ 0.67	
56	4:40	6:32	1:00	11:12	2:42	80	19	0	143%	601	15000	6010	\$ 168	\$ 73	\$ 106.5	\$ 38	\$ 385	53	31 \$ 0.64	
57	4:13	6:46	1:00	10:59	2:29	62	21	0	141%	595	14900	5950	\$ 168	\$ 67	\$ 83.5	\$ 42	\$ 360	54	28 \$ 0.60	
Avg	4:42	6:31	1:00	11:13	2:43	80	20		134%	566	15090	5665	\$ 168	\$ 73	\$ 105.5	\$ 41	\$ 388	50	27 \$ 0.68	
Low	4:13	6:15	1:00	10:31	2:01	62	19		118%	499	12475	4990	\$ 168	\$ 54	\$ 83.5	\$ 38	\$ 357	47	22 \$ 0.60	
High	5:17	6:46	1:00	11:45	3:15	106	22		143%	601	20250	6010	\$ 168	\$ 88	\$ 137.5	\$ 44	\$ 431	54	31 \$ 0.74	
T O T A L S											3966	105630	39660	\$ 1176	\$ 515	\$ 737	\$ 288	\$ 2716	50	27 \$ 0.68
33:00 49:37 1:00 78:37 19:07 561 144																				

Figure 15: Route Summary Statistics, Table Page 7.42, emphasis added

While ROADNET teaches defining service times wherein the service times are determined/defined for each of goods, product categories, accounts and sites account based on a plurality of factors including fixed service time, variable service time, stairs, elevators, bulk deliveries, service time based on past service times (Last Paragraph, Page 4.128; Paragraphs 1-3, Page 4.129) and the presence/absence of a helper and that orders include special delivery instructions (Table 4.60; Figure 7.2); ROADNET does not expressly teach that the work unit is based on a degree of *difficulty in installing* the good as claimed.

Official notice is taken that it is old and well known that goods, for example major appliances, require delivery *and installation* wherein not all major appliances are the same size nor require the same installation procedures (time, complexity, skills,

equipment, etc.). Further it is a common business practice to account for the installation requirements of the goods to be delivered and installed either expressly or intuitively.

Major appliances (white goods) vary widely in size, weight, and installation complexity (steps, tools, skills, location, etc) wherein even the same appliance may have different installation requirements; for example installing a microwave could be as simple as placing it on a countertop or as complex as requiring outside venting as part of a range top.

Further it is not uncommon for home delivery service providers to ask customers a series of questions regarding the delivery and installation of their newly purchase appliance; for example installers may asks customers such as is there an old appliance that needs to be hauled away or where is the new appliance being installed (second floor, apartment steps, basement, etc.) or does the customer have the necessary space or equipment (water, electric, etc.) for the major appliance; wherein installers are implicitly attempting to gauge the difficulty of delivering and installing the major appliance in order to better understand the installation/delivery requirements (time, skills, tools, etc.).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for goods delivery management as taught by the ROADNET with its ability to schedule delivery capacity based on a plurality of product/goods, category, account and site parameters including size, service time (fixed/flexible, additional) as well as the presence/absence of a helper would have been

benefited from taking into account the “degree of installation difficulty” in view of the teachings of official notice.

Regarding Claims 2, 9, 11, 18 and 20 ROADNET teaches a delivery system and method wherein the delivery agent statistics includes at least one of the following (selected from the group consisting of): delivery capacity, reserved capacity, deliveries, default capacity, override capacity, capacity usage or percent capacity usage (resource utilization report: Pages 6.12, 6.21, 7.41, 7.43; driver performance report: Pages 1.17, 6.24, 6.33, 7.18; Table 6.26; percept capacity: Table 7.4, Row 11; Figures 7.42, 7.43, 7.44; graphical load: Page 2.16; Table 2.56; Table 2.58, Row 2; Table 2.51, Rows 11-13).

Further it is noted that the labels used to describe the various delivery agent statistics merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific labels used to describe the calculated delivery agent statistics. Further, the structural elements remain the same regardless of the specific labels used to describe the calculated delivery agent statistics. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claims 3 and 12 ROADNET teaches a delivery system and method further comprising calculating the deliveries scheduled for the delivery agent (route planning; route editor, stops; Paragraphs 2-4, Page 2.16; Pages 2.20-2.24, 2.36-2.40).

Regarding Claims 4 and 13 ROADNET teaches a delivery system and method further comprising calculating the percent capacity utilization per day for the delivery agent (Page 2.16; minimum percent full, Second Table, Row 4, Page 1.68; percent capacity: Table 7.4, Row 11; Figures 7.42, 7.43, 7.44; graphical load: Table 2.51, Rows 11-13; Table 7.61; Figure 7.62; Page 6.64).

Regarding Claims 5 and 14 ROADNET teaches a delivery system and method further comprising marking (indicating, presenting, identifying, flagging, tagging, etc.) out of capacity conditions (Paragraphs 3-4, Page 2.16; Figure 2.27).

Regarding Claims 6 and 15 ROADNET teaches a delivery system and method wherein the delivery agent information includes at least one of the following (selected from the group consisting of): location, name, code, schedule name or zone group name (Paragraph 1, Page 4.25; Pages 1.70-1.72, 4.87-4.88, 6.34, 6.71, 7.19; Tables 1.67, 2.57, 4.11, 4.26, 4.47-4.51).

Further it is noted that the labels used to describe the various delivery agent information merely represent non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific labels used to describe the various delivery agent information. Further, the structural elements remain the same regardless of the specific labels used to describe the various delivery agent information. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Regarding Claims 7-8 and 16-17 ROADNET teaches a delivery system and method further comprising displaying the delivery agent statistics on a monthly and daily basis (Step 5, Page 1.79; Pages 6.20, 6.21, 6.32; Table, Row 1, Page 6.19).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nicholls et al., U.S. Patent No. 5,485,369, teach an order delivery management system and method.
- Collins et al., U.S. Patent No. 5,632,404, teach a system and method for scheduling the delivery of services in response to service requests wherein the service time (duration) required to install and deliver the requested service/product varies based on a plurality of factors.
- Fitzgerald, U.S. Patent Publication No. 5,789,950, teaches a system and method for determining the duration of activities (tasks) based on previous activities.
- Weigel et al., Applying GIS and OR Techniques to Solve Sears Technician-Dispatching and Home-Delivery Problems (1999), teach a goods (major appliances) delivery management system and method.
- Partyka et al., On the Road to Service (2000), teach several goods delivery systems and methods (home delivery of appliances) comprising mixed pickup and deliver, variable service/delivery times (e.g. appliance repair), delivery agent specialization (driver skills), delivery time windows, vehicle routing/scheduling, route planning, geocoding, driver assignment and real-time vehicle/delivery tracking.
- Hodl, Wal-Mart Move Could Shift Major Appliance Landscape (2000), teaches a partnership between General Electric appliances and Wal-Mart for selling, home delivery and home installation of major appliances wherein GE manages the delivery

and installation process. Hodl further teaches the Home Depot also sells, delivers and installs home appliances wherein Home Depot charges customers separately for door-to-door delivery and in-home installation.

- Baeb, Rivals aiming to pull plug on Sears' appliance push (2000), teaches Sears ability to sell, delivery and install home appliances. Baeb teaches that the traditional model for selling major appliances is a full-service model that includes the delivery and installation of the newly purchase appliance in the customer's home.

Baeb further teaches a joint venture between General Electric and Wal-Mart to sell, deliver and install appliances wherein GE warehouses, delivers and installs the appliances for retailers like Wal-Mart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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